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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **(OAKLAND COURTHOUSE)**

12 AMITABHO CHATTOPADHYAY and
13 VITALII TYMCHYSHYN, individually and
on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 SIMPLE FINANCE TECHNOLOGY CORP.
and BBVA USA, F/K/A COMPASS BANK,

17
18 Defendants.
19
20

Case No. 4:19-cv-01541-JST

The Honorable Jon S. Tigar

**STIPULATION RE: (1) JUDGMENT OF
PERMANENT INJUNCTION; AND (2)
DISMISSAL OF DAMAGES CLAIMS**

SAC Filed: June 2, 2020

1 Plaintiffs Amitabho Chattopadhyay (“Chattopadhyay”) and Vitalii Tymchyshyn
 2 (“Tymchyshyn,” together with Chattopadhyay, “Plaintiffs”), and Defendant BBVA USA, f/k/a
 3 Compass Bank (“BBVA”), through their respective counsel of record, hereby stipulate and agree
 4 as follows:

5 RECITALS

6 1. On June 2, 2020, Plaintiffs filed their Second Amended Complaint, which asserts
 7 damages claims against BBVA for violation of the Civil Rights Act of 1866 (42 U.S.C. § 1981)
 8 and California’s Unruh Civil Rights Act (Cal. Civ. Code §§ 51 et seq.). Specifically, Plaintiffs
 9 allege that BBVA has a stated policy of requiring all non-U.S. citizens with valid social security
 10 numbers to open a bank account at a branch office when account opening services for U.S.
 11 citizens are otherwise available online (the “Challenged Practice”).

12 2. On June 15, 2020, BBVA filed its motion to dismiss the Second Amended
 13 Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

14 3. By order dated November 2, 2020, the Court granted BBVA’s motion to dismiss
 15 the Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1).

16 4. On January 4, 2021, Plaintiffs appealed the November 2, 2020 order granting
 17 BBVA’s motion to dismiss the Second Amended Complaint.

18 5. By memorandum dated October 26, 2021, the United States Court of Appeals for
 19 the Ninth Circuit reversed the November 2, 2020 order granting BBVA’s motion to dismiss the
 20 Second Amended Complaint and remanded the Action for further proceedings.

21 6. By order dated April 4, 2022, the Court denied BBVA’s renewed motion to
 22 dismiss the Second Amended Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1)
 23 and 12(b)(6).

24 7. The parties have executed an agreement to settle and resolve all claims alleged in
 25 the Second Amended Complaint by Plaintiffs individually, which agreement has no effect on the
 26 claims of or against any other party or absent class member.

STIPULATION

1 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) all individual claims
2 for damages alleged by Plaintiffs in the Second Amended Complaint shall be and are hereby are
3 dismissed with prejudice. The parties shall each bear their own attorneys' fees and costs.

4 2. BBVA shall be and is hereby permanently enjoined and restrained from engaging
5 in the Challenged Practice, except as required by laws, rules or regulations now in existence or
6 hereafter enacted.

7 3. The Court shall retain jurisdiction to enforce the terms of this Stipulation Re: (1)
8 Judgment Of Permanent Injunction; and (2) Dismissal Of Damages Claims.

9 **IT IS SO STIPULATED.**

10 Dated: October 12, 2022

11 /s/ Anne B. Shaver

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The filer of this document, Stuart M. Richter, attests that the concurrence in the filing of
the document has been obtained from counsel for Plaintiffs pursuant to L.R. 5-1(i).